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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS.

MAXWELL KEITH,
111 Sutter St.,
San Francisco, Calif.,
Attorney for Plaintiff and Appellant.

J. BRUCE FRATIS, ESQ.,
935 Russ Bldg.,
San Francisco, Calif.;
MARSHALL E. LEAHY, ESQ.,
JOHN F. O'DEA,
1258 Russ Bldg.,
San Francisco, Calif.,
Attorneys for Defendants and Appellees.

In the Southern Division of the United States District Court for the Northern District of California

No. 28988R

WILLIAM RADOVICH,

Plaintiff,

vs.

NATIONAL FOOTBALL LEAGUE, BERT BELL, J. RUFUS KLAWANS, BOSTON YANKS, NEW YORK RANGERS, NEW YORK GIANTS CLUB, PHILADELPHIA EAGLES, THE LOS ANGELES RAMS FOOTBALL CLUB, INC., PITTSBURGH STEELERS FOOTBALL CLUB, WASHINGTON REDSKINS, CHICAGO BEARS FOOTBALL CLUB, INC., CHICAGO CARDINALS FOOTBALL CLUB, DETROIT LIONS FOOTBALL CLUB, GREEN BAY PACKERS, SAN FRANCISCO CLIPPERS, DOE ONE, DOE TWO, DOE THREE, DOE FOUR, DOE FIVE, DOE SIX, DOE SEVEN, DOE EIGHT, DOE NINE AND DOE TEN,

Defendants.

COMPLAINT

The above-named plaintiff brings this action against the above-named defendants, and for claim of relief, he complains and alleges as follows:

I.

Jurisdiction and Venue

1. This complaint is filed and these proceedings

are instituted against the above-named defendants under Sections 15 and 26 of Title 15 U.S.C.A., being a part of the Act of Congress of July 2, 1890, c.649, 26 Stat. 209, as amended, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," commonly known as the Sherman Act and the Clayton Act.

2. Each of the corporate defendants transacts business, maintains offices and may be found in San Francisco, California.

II.

Description of the Parties

3. William Radovich, a resident of the City of Los Angeles, State of California, is a professional football player. He played football for the University of Southern California up to 1937 and in 1936 and 1937 was chosen "All Coast Guard." From 1938 to 1941, he played with the Detroit Lions of the National League. He entered the Navy in July of 1942 and played with the Great Lakes Service team for the 1942 season. In that year, he was selected as one of the guards on the All Service Team. Upon his discharge from the Navy, he rejoined the Detroit Lions. At the end of the 1945 season, he was unanimously selected by Associated Press, United Press, and the International News Service as "All-Pro Guard."

4. The defendant National Football League, hereinafter referred to as National League, was

organized as the American Professional Football Association at Akron, Ohio on April 30, 1921. On June 24, 1922, its name was changed to the National Football League. On April 12, 1940, its membership fee was set at Fifty Thousand Dollars ($50,000). On January 13, 1946, the National League organized three minor leagues which it called: the American League, the Dixie League and the Pacific Coast League. The Pacific Coast League of the National League includes the Hawaiian Warriors, the Salt Lake City Seagulls, the Los Angeles Bulldogs, now known as the Long Beach Bulldogs, and the San Francisco Clippers.

5. The following defendants are members of the National League. The status, whether corporate or associate, of these members is not known to the plaintiff except where indicated in their names. Upon discovery, the plaintiff will pray leave to amend this complaint to show the exact state of incorporation or association.

a. Boston Yanks, now in New York and known as the New York Rangers, owned by Ted Collins, Statler Office Building, Boston 16, Massachusetts.

b. New York Giants Club—J. V. Mara, President, 11 West 42nd Street, New York City.

c. Philadelphia Eagles—Alexis Thompson, President, 22 South 17th Street, Philadelphia, Pennsylvania.

d. The Los Angeles Rams Football Club, Inc.—

Daniel V. Reaves, President, 273 South Beverly Drive, Beverly Hills, California.

e. Pittsburgh Steelers Football Club—Arthur Rooney, President, 521 Grant Street, Pittsburgh 39, Pennsylvania.

f. Washington Redskins—George Marshall, President, 739 Ninth Street, N.W., Washington 1, D. C.

g. Chicago Bears Football Club, Inc.—George S. Halas, President, 233 West Madison, Chicago 6, Illinois.

h. Chicago Cardinals Football Club—Ray Benningsen, President, 511 Plymouth Court, Chicago 5, Illinois.

i. Detroit Lions Football Club—D. Lyle Fife, President, 505 Park Avenue, Tuller Oil Building, Detroit 26, Michigan.

j. Green Bay Packers—Earl L. Lambeau, General Manager, City Stadium, Green Bay, Wisconsin.

6. The defendant Bert Bell is and has been for sometime past the Commissioner of the National League.

7. J. Rufus Klawans, a resident of the above district and division, is and for sometime past has been Commissioner of the Pacific Coast League of the National League.

8. The true names or capacities, whether corporate, associate or otherwise, of defendants Doe

One through Doe Ten are unknown to plaintiff and plaintiff therefore designates them by such fictitious names, and when their true names are discovered, this complaint will be amended accordingly.

9. Whenever it is hereinafter alleged in this complaint that any defendant corporation or association did any act or thing, such allegation shall be deemed to mean that the officers, agents, and employees of the said defendant authorized, ordered or did such act or thing for and on behalf of said defendant corporation while actively engaged in the management, direction, control and operation of the business affairs of said corporation.

III.

Nature of the Trade and Commerce Involved

10. The exhibition of professional football contests is directly tied in and connected with lucrative contracts for the interstate communication by radio and television of the playing of the games. The interstate communication by radio and television is not incidental to the exhibition of the game because the substantial remuneration involved in the said interstate communication is a significant portion of the gross receipts resulting from the exhibition of football contests. Football games are played on the basis of round robin schedules in Boston, New York, Washington, Philadelphia, Los Angeles, Pittsburgh, Chicago, Detroit, Green Bay and other metropolitan centers throughout the United States. During the football season, there is constant travel

by the ball players and managers between these cities. Prior to the opening of the season, the managing agents of the various teams make contracts with broadcasting and televising companies under the terms of which these companies agree to send across state lines play-by-play narratives or moving pictures of the games. They enter into contracts with the said companies by which for large payments they allow the companies to install suitable apparatus in the ball parks by means of which the companies transmit the narratives and pictures to the outside public. At the time of contracting, it is specifically agreed, understood and contemplated that the transmission of the narratives and pictures by broadcasting and television companies will include interstate communication.

11. The contracts with the broadcasting and television companies are mutual arrangements by which each club contributes its share to a common venture. The arrangements between the defendants and the broadcasting and television companies are not mere incidents of the business but are part of the business of professional football itself. Without the substantial sums of money derived by the defendants from the broadcasting, televising and the photographing of the games, the business of operating a professional football club would not be profitable. The playing of the games is essential to the interstate transmission by broadcasting and television. The contract hereinafter described between the football players and the defendants, including the so-

called "reserve clause" relate not only to the local exhibition of football games but necessarily as well to the interstate broadcasting and televising thereof.

IV.

The Combination and Conspiracy

12. Beginning in or about the year 1938 and continuing without interruption thereafter up to and including the date of filing of this complaint, the defendants and others acting in concert with them have violated and are now violating Sections 1 and 2 of the Sherman Act by unlawfully contracting, combining and conspiring to monopolize, monopolizing and attempting to monopolize, and by unlawfully contracting, combining and conspiring to restrain trade and commerce among the several states in the business of professional football and by conspiring to monopolize, control, regulate and dictate the terms upon which organized professional football shall be played throughout the United States.

13. The said unlawful conspiracy to monopolize, monopoly and attempt to monopolize, the contracts, combinations and conspiracies to restrain trade and commerce in the business of organized professional football have consisted and do consist of a continuing agreement and concert of action among the defendants, the substantial terms of which agreement and the means of such concert of action are as follows:

a. That defendants agree that in making contracts with football players, each will use the uniform players' contract published by the National League:

b. That defendants agree to insert in said uniform players' contract a reserve clause under the terms of which the football player binds himself not to sign a contract with or play for any club other than the club which originally employed him or its assignee. In effect this clause prevents a player from ever playing for any team other than his original employer unless the employer consents.

c. That defendants agree that any player violating the reserve clause will be blacklisted by all clubs in the National League so that no club in the said National League may hire him.

14. To effectuate the aforesaid combination and conspiracy, and as a part thereof, the defendants throughout the period from 1938 to the date of the filing of this complaint, regularly and continuously did the things which they agreed to do, as aforesaid, and more specifically, among others, did the following things:

V.

The Boycotting and Blacklisting of Plaintiff

15. The plaintiff was All Coast Guard in 1936 and 1937 during which years he played on the varsity on the University of Southern California. In 1938 he joined the Detroit Lions. He played

with the Detroit Lions for the seasons of 1938, 1939, 1940 and 1941.

16. In July of 1942, plaintiff joined the Navy. For the 1942 season, he played with the Great Lakes Service team and was selected as guard on the All Service Team for that year.

17. In 1943, plaintiff did not play football but was Athletic Instructor, Chief Specialist of Athletics at the University of California at Los Aangeles. He remained at U.C.L.A. from June, 1943, to March, 1945, when he transferred to the University of New Mexico as Line Coach.

18. Plaintiff was at Corona Naval Hospital in June, 1945, and was honorably discharged from the Navy in September, 1945, after thirty-eight months of service.

19. Upon his discharge from the Navy, the defendant Detroit Lions immediately arranged for his transportation to Detroit whereon the following season he played in the first game of the 1945 season, and throughout that season he averaged fifty-eight minutes of every game for the entire eleven-game series. At the end of the season he was selected unanimously by the Associated Press, the United Press, and International News Service as All-Pro Guard.

20. During all of period of time in which the plaintiff was with the Detroit Lions, he was forced, as all professional football players are forced, to

sign the uniform contract containing the reserve clause.

21. On Christmas Eve, 1945, Don Ameche, then president of the Los Angeles Dons, telephoned the plaintiff and inquired whether plaintiff was interested in playing for the Los Angeles Dons. Plaintiff answered in the affirmative and thereafter negotiated a contract with the Los Angeles Dons with Edward "Slip" Madigan. The contract was negotiated in January, 1946, for a two-year period at a salary of Six Thousand Five Hundred Dollars ($6,500) for each year.

22. The Detroit Lions paid plaintiff only Three Thousand Two Hundred Fifty Dollars ($3,250) under the 1945 contract. During the 1945 season, plaintiff was informed by Fred Mandel, then owner of the Detroit Lions, that he would receive a bonus for playing time per game which should have been Five Hundred Dollars ($500) over the contract. It was in the 1945 season that he was unanimously chosen on the All-Pro Team. It is customary for a player receiving such an honor to receive a further bonus from his club. The Chicago Bears has paid their All-Pro members a One Thousand Dollar ($1,000) bonus. Fred Mandel promised plaintiff that he would be given a substantial bonus, but he received from Lewis Cromwell, the manager, only Four Hundred Dollars ($400) for both of the aforementioned earned bonuses.

23. Before signing with the Los Angeles Dons, plaintiff had asked Mandel of Detroit Lions to be

traded to the Los Angeles Rams, a member of the National League, when the said Rams transferred to Los Angeles from Cleveland, but Mandel, relying on the uniform contract of the National League, refused to do so. At the time plaintiff told Mandel that he desired to be transferred to Los Angeles, within the framework of the National League contract, because his father had been stricken with a dangerous affliction and had been operated on at St. Joseph's Hospital on July 12, 1945, and it was necessary for plaintiff to remain close by for the purpose of aiding and assisting his father. Mandel continued to refuse to transfer plaintiff to Los Angeles relying on the coercion of the blacklisting, boycotting and banning of plaintiff from the business of organized football.

24. In early September of 1946, Mandel of Detroit Lions came to California and after plaintiff's first game with the Los Angeles Dons against the Miami Seahawks, Mandel told plaintiff that he had breached his contract with the Detroit Lions and must return. Plaintiff again asked Mr. Mandel to be traded to the Los Angeles Rams so he could stay in Los Angeles because of his father's health, who had been operated upon a second time on August 31, 1946, at the Queen of the Angeles Hospital in Los Angeles. However, fearing the consequences of a ban and still cognizant of the necessity of earning more money so that Plaintiff could care for his father and family, Plaintiff offered to go back to play for the Detroit Lions if they would give him

the same amount of money as he was receiving from the Los Angeles Dons, namely Six Thousand Five Hundred Dollars ($6,500) a year. Mandel refused to meet this offer and instead gave plaintiff an ultimatum that he return to Detroit for the first League game or suffer the penalties, boycotts and blacklisting imposed by the National League. Plaintiff refused to be bullied by Mandel and played with the Los Angeles Dons for the 1946 season.

25. The Los Angeles Dons was not a team of the National League but a team of the then organized All America Conference. The All America Conference was a rival to the National League, and part of the combination, conspiracy and monopoly heretofore alleged has consisted of agreements by the defendants to boycott and, if possible, ruin the All America Conference so that the business of organized football would remain the monopoly of the National League.

26. Plaintiff played the 1946 season with the Dons and at the end of the season was selected as All-Pro Guard by Associated Press.

27. In 1947, plaintiff played all season with the Los Angeles Dons, the contract terminating in April of 1948. He received honorable mention for All-Pro Team but had sustained an injury which prevented his playing full time.

28. At the start of the 1948 season, plaintiff was contacted by William Howard, coach of the San Francisco Clippers of the National League. Mr.

Howard desired to employ plaintiff as a combination coach and player at a salary of Five Thousand Dollars ($5,000) per year. He told plaintiff that he was so employed. The defendants, in the meantime, had caused blacklists to be published throughout the country directly notifying all the members of the National League, including the members of the Pacific Coast Division, that severe penalties would be imposed against any team hiring or employing plaintiff. In the San Francisco area, the blacklisting was accomplished through the defendant J. Rufus Klawans. Mr. Howard was informed by his superiors that while the San Francisco Clippers desired to employ plaintiff, the club would be unable to do so so long as the blacklisting by the National League was in effect. Accordingly, Howard informed plaintiff that because of the National League ban and boycott and blacklisting, he would not be able to employ him at Five Thousand Dollars ($5,000) a year as agreed.

29. Plaintiff has made repeated requests to defendant Bert Bell to remove the ban, boycott and blacklisting imposed against plaintiff for signing with the Los Angeles Dons of the All America Conference in 1946. The defendant Bert Bell has steadfastly refused to do so.

30. The said boycott, ban and blacklisting remains in effect as of the present time.

VI.

Effect of the Combination, Conspiracy and Monopoly in Restraint of Trade

31. By reason of the aforesaid violations of the anti-trust laws, defendants have injured the business of plaintiff by actively eliminating him from the business of organized football; they have suppressed competition and have monopolized the business of organized football; they have eliminated competition among themselves and prevented new competition; they have sought to impair the competition of the All America Conference; they have effectively placed all football players within their control in a condition of bondage through use of the uniform contract of the National League.

32. The injury to plaintiff was directly intended by defendants and was caused by the monopolistic practices herein alleged, and the said injury resulted in the damaging of plaintiff in the sum of Thirty-five Thousand Dollars ($35,000).

Wherefore, plaintiff prays judgment as follows:

1. That summons issue to each of the defendants commanding it to answer the allegations contained in this complaint and to abide by and perform such orders and decrees as the Court may make in the premises.

2. That plaintiff receive with interest as damages for the injury to his business the sum of Thirty-five Thousand Dollars ($35,000), and that

the said sum be trebled to One Hundred Five Thousand Dollars ($105,000), and that the Court award a reasonable attorneys' fees, all in accordance with Section 4 of the Clayton Act (15 U.S.C.A. 15) in such cases made and provided.

3. That the aforesaid combination and conspiracy, contract, agreements, arrangements and understandings in restraint of interstate commerce, conspiracy to monopolize, attempts to monopolize and monopolization of interstate commerce be adjudged and decreed to be unlawful, and that the contracts, agreements, arrangements, understandings and practices alleged in this complaint be adjudged and decreed to be in violation of Sections 1 and 2 of the Sherman Act.

4. That the Court adjudge and decree that the defendants have combined and conspired to restrain unreasonably and have conspired to monopolize, attempted to monopolize and have monopolized the interstate trade and commerce in the business of organized football in violation of Sections 1 and 2 of the Sherman Act.

5. That the Court enjoin defendants from the further performance of contracts containing the so-called "reserve clause."

6. That the Court enjoin defendants from boycotting or blacklisting plaintiff.

7. That the Court issue a preliminary injunction compelling defendants to remove plaintiff from their blacklists.

8. That plaintiff recover his costs herein.

9. That plaintiff have such other and further relief as the Court may deem proper.

/s/ JOSEPH L. ALIOTO,

/s/ ELWOOD S. KENDRICK,

/s/ JOSEPH F. MURPHY.

[Endorsed]: Filed July 5, 1949.

[Title of District Court and Cause.]

ANSWER

The defendant National Football League, reserving all of the rights urged in its motion to quash service of process and in its motion to dismiss, and the defendants, Chicago Cardinals Football Club, Inc., New York Football Giants Club, Inc., Chicago Bears Football Club, Inc., Detroit Football Company and Los Angeles Rams Football Club, answer the complaint of plaintiff on file herein and admit, deny and allege as follows:

1.

Answering paragraph 1 defendants and each of them deny that they or any of them have committed any acts prohibited by the Sherman Act or the Clayton Act or violated any provisions of the said acts.

2.

Answering paragraph 2 defendants and each of them deny that they or any of them transact business or maintain an office or offices or may be found in San Francisco, California, or within the jurisdictional limits of this Court.

3.

Answering paragraph 3 defendants and each of them admit that plaintiff played football with a professional football team owned by Fred L. Mandel, Jr., individually and doing business as Detroit Lions (hereinafter in this answer referred to as the Old Detroit Lions); that said Old Detroit Lions was a member of the National Football League and the plaintiff played football for said member during the seasons of 1938, 1939, 1940, 1941 and 1945; that said Fred L. Mandel, Jr., sold his franchise in the defendant National Football League to the Detroit Football Company on January 15, 1948; that at said time said defendant Detroit Football Company acquired the right to the use of the name Detroit Lions and said defendant Detroit Football Company now is a member of the defendant National Football League and is known as the Detroit Lions; that at the time said defendant Detroit Football Company acquired said franchise the plaintiff had already been suspended by the defendant National Football League, all as more particularly set out in this answer. Except as to the matter so admitted defendants and each of them are without knowledge

or information sufficient to form a belief as to the truth of the averments of paragraph 3 and basing their denial upon such ground defendants and each of them deny generally and specifically the averments not hereinabove admitted.

4.

Answering paragraph 4 defendants and each of them allege that National Football League is an unincorporated association which was organized as the American Professional Football Association at Akron, Ohio, during or about the year 1920, the exact date being unknown; that during or about the year 1922, the exact date being unknown, the name thereof was changed to National Football League; that upon application for admission to membership a prospective member is required to deposit with the league the sum of Twenty-five Thousand Dollars ($25,000) and an additional sum of like amount upon approval of the application. Defendants and each of them deny that the National Football League organized the American League, Dixie League or Pacific Coast League, or any other league or leagues either on January 13, 1946, or at any other time, or at all; defendants and each of them have no knowledge or information about or on the identity or names of the members of the Pacific Coast League and basing their denial upon that ground deny that the teams named in paragraph 4 of plaintiff's complaint were members of the Pacific Coast League. Except as herein admitted defendants and each of them deny each and every,

all and singular, the allegations of paragraph 4 of plaintiff's complaint.

5.

Answering the allegations of paragraph 5 defendants and each of them aver that the members of the National Football League at the time of the filing of the complaint were as follows:

(a) Boston Yanks—A business owned and operated by Ted Collins individually and doing business as Boston Yanks with its principal office for the transaction of business in the Statler Building, Boston, Mass.

(b) New York Football Giants Club, Inc.—A business corporation organized and existing under the laws of the State of New York with its principal office for the transaction of business located at 11 West 42nd Street, New York City, New York.

(c) The Philadelphia Eagles, Inc.—A business corporation organized and existing under the laws of the State of New York with its principal office for the transaction of business located at 22 S. 17th Street, Philadelphia, Pa.

(d) Los Angeles Rams Football Club—A limited partnership consisting of and owned and operated by Messrs. Daniel F. Reeves, Edwin Pauley, Al Pauley, Fred Levy, Jr., and J. H. Seley, with the principal office of said limited partnership at 7813 Beverly Blvd., Beverly Hills, California.

(e) Pittsburgh Steelers Sports, Inc.—A business corporation organized and existing under the laws

of the State of Pennsylvania with its principal office for the transaction of business at 521 Grant Street, Pittsburgh, Pennsylvania.

(f) Washington Redskins Pro Football, Inc.—A busjness corporation organized and existing under the laws of the State of Maryland with its principal office for the transaction of business located at 739 Ninth Street, N.W., Washington, District of Columbia.

(g) Chicago Bears Football Club, Inc.—A business corporation organized and existing under the laws of the State of Illinois with its principal office for the transaction of business located at 233 West Madison, Chicago, Illinois.

(h) Chicago Cardinals Football Club, Inc.—A business corporation organized and existing under the laws of the State of Illinois with its principal office for the transaction of business located at 511 Plymouth Court, Chicago, Illinois.

(i) Detroit Football Company—A business corporation organized and existing under the laws of the State of Michigan with its principal office for the transaction of business located at 505 Park Avenue, Tuller Oil Building, Detroit, Michigan.

(j) Green Bay Packers, Inc.—A business corporation organized and existing under the laws of the State of Wisconsin with its principal office for the transaction of business located at 349 S. Washington Street, Green Bay, Wisconsin.

That the present membership of the defendant National Football League is the same as it was at the time of the filing of the complaint in this action except as follows:

(a) The Boston Yanks have changed their name to New York Yanks; said team is still owned by Ted Collins individually and now does business as New York Yanks in New York with its principal office for the transaction of business at 4 W. 62nd Street, New York City, N. Y.

(b) Cleveland Browns Football Club—A business corporation organized and existing under the laws of the State of Ohio with its principal office for the transaction of business located in the Leader Building, Cleveland, Ohio.

(c) San Francisco 49ers—A limited partnership consisting of Anthony J. Morabito and Victor P. Morabito doing business as San Francisco 49ers with its principal office for the transaction of business in the Phelan Building, San Francisco, California.

Except as herein averred defendants and each of them deny generally and specifically the allegations of paragraph 5.

6.

Answering paragraph 6 defendants and each of them admit the allegations therein set forth.

7.

Answering paragraph 7 defendants and each of them aver that they and each of them are informed

and believe that the allegations therein set forth are true.

8.

Answering paragraph 8 defendants and each of them aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the allegations therein contained.

9.

Answering paragraph 9 defendants and each of them deny generally and specifically all of the allegations of said paragraph other than allegations indicating the intention of the pleader.

10.

Answering paragraph 10 defendants and each of them aver that each of the members of the defendant National Football League leases a football stadium within the city which it represents and that in said stadium its team performs and engages the teams of the other clubs of its league in regularly scheduled league games for which admission is charged; that some of said games are played for profit and others are played at a loss; that rights to broadcast descriptions of some football games have been granted by some members of the National Football League clubs to other persons and that some broadcasts and some telecasts of descriptions of football games are transmitted across state lines; that broadcasts and telecasts of descriptions of football games, and the granting of the rights to broad-

cast and telecast such descriptions are merely incidental to the playing of the game in the local stadium of the member and are in no way necessary for, or a part of the playing or holding of football games or contests; that rights to broadcast or telecast descriptions of football games are sometimes purchased by corporations which are engaged in interstate commerce, and that the contracts under which such corporation purchases such rights usually provide for the right to broadcast or telecast some or all of the regularly scheduled league games of the member clubs when and if played.

The defendants and each of them further aver that the revenue derived by the member clubs in the league for the right to broadcast or telecast the game is not substantial and is relatively small compared to the receipts derived from the patrons attending the game itself.

Defendants and each of them aver that the playing season of the National Football League extends from about the middle of July to the middle of December with a prearranged schedule whereby each member team is scheduled to play approximately five games at home and five games at the home grounds of five of the other league members; that in addition member teams are permitted to and actually do engage in the playing of exhibition games during the training season which extends from approximately the middle of July to the beginning of October; that during October, November and a part of December the regular league play is

conducted; that in playing the schedule for each season each member club, when playing as a visting club, transports at its own expense its playing equipment and player personnel across state lines to such an extent and at such times as are necessary to enable it to reach the place at which the scheduled games are played. Except as herein admitted defendants and each of them deny generally and specifically the allegations of paragraph 10.

11.

Answering paragraph 11, defendants and each of them restate each and all of the allegations contained in paragraph 10 of this answer as fully and with the same force and effect as if herein restated at length. Defendants and each of them deny that without the income from contracts permitting radio broadcasts, telecasts and photographs of the games, a professional football team could not operate profitably, and in this connection allege that many defendant teams did operate profitably for many years without any radio, television or photography whatsoever; that the income from said sources is a mere incident to the main operation of the defendant clubs—namely the playing of the game itself before actual spectators and at parks and stadiums provided for that purpose; that the playing of said game is purely a local affair and depends for the most part on the support and following of the members of the public residing in the community in which the stadiums are located and in the city

which the individual team in that community represents or purports to represent. The business of each of the defendants, except defendant National Football League, is giving exhibitions of major league professional football; all contests and exhibitions of football are held either wholly within the stadium owned or leased by the individual defendant member situate in the state in which it has its principal office for the transaction of business, or wholly within the stadium of the opposing member; said stadiums and each of them in which these defendants and each of them have engaged at all times herein mentioned in exhibitions of professional football are wholly within the physical limits of the state in which the respective stadium is situate, and each exhibition of professional football is played within the same stadium in which it is begun; the presentation of exhibitions of professional football of the character in which the defendant member teams have engaged at all times herein mentioned requires that each player engaged therein, maintain and exhibit a high standard of physical fitness and have and maintain a highly specialized knowledge and skill in playing professional football; the employment of all players is determined by their special knowledge, skill and ability as football players and by their physical condition.

The defendant National Football League is an unincorporated association consisting of the member teams described in paragraph 5 of this answer; it

is presided over by one Bert Bell as Commissioner of said National Football League and said defendant National Football League, through said Bert Bell as Commissioner, conducts the business of the National Football League in its day-to-day operation; that the principal office for the transaction of business of said defendant National Football League is located at 1518 Walnut Street, Philadelphia, Pennsylvania.

Except as herein asserted, defendants and each of them deny each and every, all and singular the allegations of paragraph 11.

12.

Defendants and each of them deny that they or any of them have at any time committed any acts forbidden by Sections 1 and 2 of the Sherman Act; deny further that they or any of them have at any time violated any of the aforesaid sections of the Sherman Act, and deny that any act of these defendants has at any time damaged plaintiff.

13.

Answering paragraph 13, defendants and each of them allege that professional football in the National Football League is played pursuant to agreements and rules adopted by the member clubs from time to time to regulate and conduct an orderly and competitive exhibition of professional football among its members; that one of the rules adopted by the defendant National Football League is that

each player sign a uniform players' contract prepared and adopted by the defendant National Football League; that defendants and each of them admit and aver that all agreements, players' contracts and rules made for the conduct of professional football have resulted from thirty years of practical experience in professional football and are responsible for the successful development of the present high standards of honesty and integrity and the public confidence which has made American football a great national sport; and that the agreements, player contracts and rules made for the conduct of professional football are designed and are intended, and are effective to promote and maintain the highest degree of competition between teams, to promote the development of skilled players and to afford to them increased opportunities to advance in their profession and in their earning power, to preserve the honesty and integ ity of the game, and to maintain confidence in the game of football on the part of the public and all those participating in professional football. The defendants further aver that said agreements, player contracts and rules are necessary, reasonable and effective for the accomplishment of the foregoing objectives and that their use furthers both the public interest and that of the players and of all others employed or participating in professional football.

Defendants and each of them further admit that professional football as played in the National Football League does not consist of an isolated profes-

sional football team playing haphazardly with other teams; that the competition between member teams is conducted pursuant to prearranged schedules which are not round-robin in nature; that such schedules provide for team competition in which the public is interested; that being a team game, football must have rules and regulations as to how and when the game shall be played and who shall play it; that the defendant National Football League at all times herein mentioned did have rules and regulations covering the rights and obligations of the members and the players of the members; that one of the rules in effect in the National Football League since 1946 provided in effect that if any player violates his contract with a member team he is automatically suspended for five (5) years; that these defendants admit that in 1946 after Radovich signed a contract with the Los Angeles Dons, as aforesaid, he was automatically suspended by the defendant National Football League pursuant to its rules for a period of five (5) years; that such suspension was in effect at all times up to the date of the filing of the complaint in this action; that in that connection defendants and each of them allege that the playing of team games in accordance with a prearranged schedule and under rules defining the eligibility of the players under certain circumstances, is the common and general practice in the conduct of team sports, both amateur and professional and is necessary to provide fair and reasonable competition and to attract and maintain public interest in the sports; that, in order to attract suffi-

cient public patronage to make possible the playing of the game and to meet the just expectations of the public, football games must be played as part of regular schedules between independently-owned clubs which provide and maintain adequate physical plants and teams with adequate personnel so that the relative skills of the competing teams shall not be so disproportionate as to destroy the competitive character of the games; that it is in the interest of each club, its players and the public that each club shall have sufficient opportunity to provide and maintain a team with sufficient skill to make contests with competing clubs truly competitive; that, among other things, each club has a manager, coaches, trainer and publicity man for its players and, in so doing, devotes time, money and effort to increasing the skill, reputation and customer drawing power of the players and to protecting their health and welfare, with great benefit to the players and the public; that that it is of the highest importance to the club, the players and the public that the game shall be played under such conditions and regulations that the game's competitive character and the integrity of the game and of football as a whole shall be beyond question in the minds of the public. Except as so admitted, each and every averment of paragraph 13 of the complaint is denied.

14.

Answering paragraph 14 defendants and each of them deny generally and specifically the allegations therein contained.

15.

Answering paragraph 15 defendants and each of them admit that plaintiff played with the "Old Detroit Lions" for the seasons of 1938, 1939, 1940 and 1941 and aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph and basing their denial upon such lack of information deny generally and specifically the allegations not admitted.

16.

Answering paragraph 16 defendants and each of them aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the allegations therein contained and basing their denial upon such lack of information deny generally and specifically the allegations of said paragraph.

17.

Answering paragraph 17 defendants and each of them aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the allegations therein contained and basing their denial upon such lack of information deny generally and specifically the allegations of said paragraph.

18.

Answering paragraph 18 defendants and each of them aver that they and each of them are without

knowledge or information sufficient to form a belief as to the truth of the allegations therein contained and basing their denial upon such lack of information deny generally and specifically the allegations of said paragraph.

19.

Answering paragraph 19 defendants and each of them admit that plaintiff played for the "Old Detroit Lions" during the 1945 season, aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of said paragraph and basing their denial upon such lack of information deny generally and specifically the allegations not admitted.

20.

Answering paragraph 20 defendants and each of them admit that the services of plaintiff were contracted for by the "Old Detroit Lions" upon the common form of contract containing the usual option for renewal and with these exceptions defendants and each of them deny generally and specifically the allegations of said paragraph.

21.

Answering paragraph 21 defendants and each of them deny generally and specifically the allegations therein contained.

22.

Answering paragraph 22 defendants and each of them admit that the salary provided in the contract

of plaintiff and the "Old Detroit Lions" for the 1945 season was the sum of Three Thousand Two Hundred Fifty Dollars ($3,250) and with this exception defendants and each of them aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph and basing their denial upon such lack of information defendants and each of them deny generally and specifically the allegations not admitted.

23.

Defendants and each of them aver that on or about the 20th day of September, 1945, plaintiff entered into a contract with Fred L. Mandel, Jr., an individual doing business as "Old Detroit Lions" of defendant National Football League, wherein he agreed to render services as a football player to the "Old Detroit Lions" during the 1945 season; that the contract further gave the "Old Detroit Lions" an option on plaintiff's services as a player for the following season of 1946, which option was one of the material inducements for the "Old Detroit Lions" to enter into the contract with the plaintiff; that plaintiff accepted said employment and entered upon his duties as a football player pursuant to the term of his contract; that plaintiff was so employed by the "Old Detroit Lions" and received compensation therefor pursuant to said contract until on or about January 31, 1946, when plaintiff left the employ of the "Old Detroit Lions" and

thereby breached his contract in that he then and thereafter failed and refused to continue his employment and voluntarily and without the consent or approval of the "Old Detroit Lions" or the defendant National Football League, or any officer or agent thereof, entered into a written agreement to play, and did play football in Los Angeles for the 1946 and 1947 seasons with Southern California Sports, Inc., a California corporation, doing business under the name and style of Los Angeles Dons; that said Los Angeles Dons were likewise engaged in the playing of professional football as a member of another league of professional football teams known as the All America Football Conference; that such services performed by plaintiff for the Los Angeles Dons were for a money consideration; defendants aver that pursuant to the league rules plaintiff was thereupon automatically declared ineligible by the Commissioner of the National Football League to play football for any member of the National Football League for a period of five (5) years for violating his contract with the "Old Detroit Lions" as aforesaid. Except as herein averred defendants and each of them deny generally and specifically the allegations of paragraph 23.

24.

Answering paragraph 24 defendants and each of them admit that plaintiff played with the Los Angeles Dons during the 1946 season, deny that any penalty or boycott or blacklisting was imposed by

the defendant National Football League and with these exceptions defendants and each of them aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph and basing their denial upon such lack of information defendants and each of them deny generally and specifically all of the allegations not admitted or positively denied.

25.

Answering paragraph 25 defendants and each of them admit that the Los Angeles Dons was not a team of the National Football League, but was a member of the All America Football Conference, admit that open and unrestrained competition existed in the business of professional football and with these exceptions deny generally and specifically the allegations of said paragraph.

26.

Answering paragraph 26 defendants and each of them admit that plaintiff played with the Los Angeles Dons during the 1946 season; defendants have no knowledge or information sufficient to form a belief as to the balance of the allegations of said paragraph 26 of said complaint and basing their denial thereon, deny each and all of the remaining allegations of said paragraph.

27.

Answering paragraph 27 defendants and each of them admit that plaintiff played with the Los An-

geles Dons during the 1947 season and aver that they and each of them are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph and basing their denial thereon, deny each and every, all and singular the remaining allegations of said paragraph 27 of said complaint.

28.

Answering paragraph 28 of said complaint defendants and each of them deny that there is any such team as the San Francisco Clippers of the National Football League; that if such a team does exist it is not now, nor has it ever been a member, affiliate, agent or representative of the defendant National Football League, nor connected with it in any manner whatsoever; defendants and each of them admit the existence in 1948 of a professional football team operating in San Francisco and Oakland primarily known as the San Francisco Clippers; that said San Francisco Clippers were members of a league operating only on the Pacific Coast and in Honolulu known as the Pacific Coast League; that such Pacific Coast League was at all times herein mentioned known by these defendants and the public generally as a minor league; that such team known as the San Francisco Clippers was not at any time a member of defendant National Football League, nor was it ever owned, controlled or directed in any manner by any member of the defendant National Football League, nor the National

Football League itself; neither was it an agent, subsidiary, representative or affiliate at any time of the defendant National Football League, nor of any of its members, owners or representatives; that the San Francisco Clippers and the Pacific Coast League, of which it was a member, operated and conducted itself as an entirely separate and distinct entity from the defendant National Football League; it had no interest therein nor any participation or connection therewith, but was completely independent and free from any relation to and with said National Football League; it had its own members, its own officer or officers, its own commissioner, its own rules and regulations, operated in different communities for the most part, its own players and coaches, its own form of contract, its own playing rules, leased its own stadia and in general was completely and wholly independent of the National Football League and its members and was not affiliated with said National Football League or its members in any manner whatsoever. That neither said Pacific Coast League, nor any of its members was at any time a division of the defendant National Football League, nor has the defendant National Football League ever had a Pacific Coast Division at any time; defendants and each of them admit that in 1948 one William Howard was the coach of the San Francisco Clippers, but defendants have no knowledge of the details thereof, nor did they or any of them have any connection, arrangement or contract with him in any manner or of any nature whatsoever.

Defendants and each of them deny that they or any of them ever caused blacklists to be published throughout the United States or otherwise notifying league members, or the Pacific Coast League, that any penalties would be exacted or imposed against any team or person hiring or employing plaintiff; defendants deny further that defendant J. Rufus Klawans assisted, aided or carried out, or in any manner established or created such a blacklist against plaintiff preventing or impeding his playing as a football player in the Pacific Coast League or otherwise; defendants have no knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph and basing their denial upon such lack of information defendants and each of them deny generally and specifically the allegations not admitted.

29.

Answering paragraph 29 defendants and each of them deny generally and specifically the allegations of said paragraph.

30.

Answering paragraph 30 defendants and each of them deny that any boycott or ban or blacklisting against plaintiff by the defendant National Football League, or any of its members is or ever was in effect.

31.

Answering the allegations of paragraph 31 defendants and each of them deny that by reason of

any of the allegations of plaintiff's complaint on file herein, or by reason of any other action, conduct, combination, conspiracy between defendants, or any of them, or by reason of any other actions or reasons whatsoever, any or all of the defendants have damaged or injured the plaintiff in any manner whatsoever, either by eliminating him from the business of organized football or otherwise; that actually when plaintiff breached his contract with the "Old Detroit Lions" in January, 1946, and signed a new contract with the Southern California Sports, Inc., doing business as Los Angeles Dons, he increased his salary from Three Thousand Two Hundred Fifty Dollars ($3,250) per year called for in his "Old Detroit Lions" contract to Six Thousand Five Hundred Dollars ($6,500) per year in the Los Angeles Dons' contract, plus a One Thousand Dollar ($1,000) bonus for signing, plus a two-year noncancellable contract; that plaintiff during the years 1946 and 1947 did receive said sums from the Los Angeles Dons for playing football, said sums representing a 100% increase in salary to plaintiff for each season above the amount for which plaintiff had contracted to play with the "Old Detroit Lions"; that plaintiff entirely ignored, and arbitrarily and capriciously breached his contract with the "Old Detroit Lions"; that said contract was signed and executed by plaintiff freely and voluntarily and plaintiff retained and enjoyed the benefits of such breach of contract during the seasons of 1946 and 1947 without hindrance, interference or complaint from the defendants or any of them;

that in the 1948 season plaintiff attempted to sign a new contract with the Los Angeles Dons, but it refused so to do because plaintiff no longer possessed the physical and mental ability sufficient to qualify him to play major league professional football; that plaintiff was rejected as unfit for play by the Los Angeles Dons, and by each other member team in the All America Football Conference; that the services of plaintiff were offered to each member of the All America Conference in 1948; that no member thereof sought his services and he was thereupon waived out of the All America Conference and made a free agent; that upon becoming a free agent plaintiff became possessed with the idea that a team of defendant National Football League might be interested in signing him as a player for 1948; that plaintiff made several efforts to interest member teams of the defendant National Football League in his services for 1948 to no avail; that at said time and continuously thereafter plaintiff no longer possessed the physical and mental ability in sufficient degree to compete as a member of a professional football team in the defendant National Football League, or in any other league of major league caliber; that plaintiff well knew such fact; that plaintiff thereupon in the summer of 1948 sought to elicit an offer from a member team in the Pacific Coast League as a professional football player; that at all times herein mentioned defendant Pacific Coast League and its member teams were of minor league caliber as compared to the defendant

National Football League and the All America Football Conference; that its players consist primarily of players either previously released by the defendant National Football League or All America Conference, or players not possessing sufficient ability to warrant a contract with any member of said major leagues; that the schedules were limited, the salaries much smaller than that of major league players, the spectator appeal much less, the revenue at the gate, or by radio or television much smaller and in most cases the players were persons who worked at other positions during the season to assist in their support and practiced football at night after work, playing their games in small communities on Sundays; all of said facts were well known to plaintiff in 1948 and at all times herein mentioned; that plaintiff knowing he no longer possessed the ability to obtain a contract with a major league team sought work as an employee of the San Francisco Clippers at a salary of approximately Fifty Dollars ($50) per game and an estimated season of approximately ten (10) games; that plaintiff was unable to obtain employment by the San Francisco Clippers at said sum or on any terms whatsoever for reasons unknown to defendants or any of them. That the failure of plaintiff to obtain employment with the San Francisco Clippers as aforesaid was not due in any manner to any action of defendants or any of them to or with each other or to or with the defendant Pacific Coast League or any of its members, employees or representatives.

That defendants and each of them are informed

and believe and relying thereon allege that plaintiff thereafter in 1948 and 1949 obtained employment as a professional football player in the Dominion of Canada and actually played therein for compensation in the 1948 and 1949 season upon terms and on conditions, the precise terms of which are unknown to defendants or any of them, but generally on a comparable basis to that being received by plaintiff during the time he played in the United States for defendant National Football League and the All America Conference; that none of these defendants at any time interfered with or sought to impede, interfere with or prevent plaintiff from so doing, but took no action in regard thereto whatsoever; that beginning after 1947 no team in the National Football League, or in the All America Conference, had any interest in signing the plaintiff as a player in either league because of the decline in his ability and his advanced age; that plaintiff was born June 24, 1915, and at the close of the 1947 football season was over thirty-two (32) years of age; all of said facts were known to the defendants and each of them, and to all of the members of the All America Conference, and in great part influenced the actions of the teams in said National Football League and the All America Conference in not seeking his services.

That except as herein admitted, defendants and each of them deny each and every, all and singular, the allegations contained in paragraph 31 of plaintiff's complaint.

32.

Answering paragraph 32 defendants and each of them deny generally and specifically the allegations of said paragraph, deny that any injury to plaintiff was intended or caused by defendants or any of them, deny that any monopolistic practice was engaged in by defendants, or any of them, and deny that plaintiff has been damaged in the said sum of Thirty-five Thousand Dollars ($35,000), or in any sum or at all.

And as and for a Second, Separate and Distinct Answer and Defense, defendants and each of them allege:

33.

That the defendant National Football League is an unincorporated association with its principal place of business in the State of Pennsylvania, and that said defendant has no office and transacts no business and cannot be found within the jurisdictional limits of this Court.

And as and for a Third, Separate and Distinct Answer and Defense, defendants and each of them allege:

34.

That Bert Bell, who is named as a defendant in this action, resides in the State of Pennsylvania and does not have any office or residence or transact any business within the jurisdictional limits of this Court. The said Bert Bell is not amenable to the

process of this Court, could not be sued upon this alleged cause of action in this District without his consent, and is an indispensable party to the maintenance of this alleged cause of action.

By Way of a Further and Affirmative Defense to plaintiff's complaint on file herein, these answering defendants allege:

That at all times herein mentioned within the period from 1946 to the date of the filing of the complaint in this action, keen, active and aggressive competition existed for plaintiff's services as a professional football player; that during said period there was operating a second major league of professional football known as the All America Conference; that said All America Conference was an unincorporated association of eight (8) professional football teams of major league caliber exhibiting and playing professional football of the same grade, class and style as the National Football League and in open, declared, unrestrained competition with the National Football League both for public acceptance, publicity, revenue, players, stadiums, radio and television terms and contracts, coaches, managers and each and every facet of professional football; that within said period said All America Conference operated teams in direct and unrestrained competition with the National Football League in New York, Chicago, Los Angeles, San Francisco, Cleveland, Buffalo, Baltimore, Brooklyn, and as predecessor to Baltimore for the year 1946, in

Miami, Florida; that each team in the All America Conference carried thirty-three (33) football players, employed coaches of national repute, engaged scouts and assistants, competed for players, and in general resorted to every conceivable device and practice to lure patrons to the games and important and skillful players to their roster; that said All America Conference and its members had no agreements or understandings with the National Football League or its members of any kind or nature relating to the plaintiff or otherwise; that the plaintiff's services were solicited and procured by the Los Angeles Dons as a member of the All America Conference at a time when plaintiff was under contract to the "Old Detroit Lions" of the defendant National Football League; that plaintiff possessed in 1946 and 1947 special and unique talent as a professional football player; that plaintiff's talent and that of other squad members was at that time a valuable property to the holder thereof; that plaintiff had given an option on said services for 1946 to the "Old Detroit Lions" for a valuable consideration, to wit, the payment in 1945 of Three Thousand Two Hundred Fifty Dollars ($3,250); that in his contract plaintiff agreed with the "Old Detroit Lions" that it would have until August 1, 1946, to exercise its option for plaintiff's services in 1946; that plaintiff repudiated said contract and breached the same wilfully and intentionally and thereupon signed a new contract with the Southern California Sports, Inc., doing business as Los Angeles Dons; that plaintiff has not at any time performed all

things required by him to be performed under his contract with "Old Detroit Lions"; that plaintiff at all times since January 1, 1946, has been and still is in default under said contract with the "Old Detroit Lions."

By Way of a Further and Separate Defense, defendant National Football League avers that plaintiff is not entitled to injunctive or any equitable relief against defendants or any of them in that plaintiff wilfully and intentionally breached his contract as aforesaid with the defendant "Old Detroit Lions" by signing a new contract with the Los Angeles Dons and thereafter refusing to perform any further services under his contract with the defendant "Old Detroit Lions"; that by such action plaintiff has been guilty of unclean hands and has acted without equity and directly in violation of equitable principles.

As a Further Separate Defense defendants and each of them allege that plaintiff is not entitled to injunctive or any other equitable relief against defendants or any of them in that plaintiff himself has not acted equitably in connection with each and all of the matters set out in his complaint in that plaintiff signed a contract to play professional football for the "Old Detroit Lions" in 1945 and gave an option to said "Old Detroit Lions" for his services in 1946 in exchange for a valuable consideration, all of which plaintiff accepted and received; that thereafter plaintiff without cause or provocation breached said contract and repudiated his

option agreement with "Old Detroit Lions," retaining the entire consideration theretofore received to the damage and injury to the "Old Detroit Lions"; that thereafter plaintiff played professional football for a competitive organization for two years and was injured while so doing rendering him unfit for further adequate services as a major league professional football player, both because of said injury and because of the fact that at the time of the breach by plaintiff he possessed only two more seasons of potential play because of his advanced age; that when plaintiff could no longer peddle his services to the All America Conference plaintiff sought employment by defendant National Football League and its members and those affiliated with defendant National Football League; that said defendant National Football League had suspended plaintiff due to his conduct, as aforesaid; that plaintiff seeks to have this court enjoin and restrain said suspension despite his failure to act and do equity in his relations with the "Old Detroit Lions" as a member of the defendant National Football League; that all equitable relief should be denied plaintiff and that plaintiff has failed to do equity in the matters related as aforesaid.

And as and for a Special Answer and Objection to the prayer of plaintiff invoking the injunctive powers of this Court defendants and each of them deny that any cause or reason now exists, if such ever did, for the relief requested and in this connection defendants and each of them aver that plain-

tiff is not now qualified to play professional football, that the Pacific Coast Football League is now disbanded and the San Francisco Clippers, the alleged prospective employer of plaintiff, is no longer in existence, and that none of these defendants are now commiting any act which directly or indirectly affects any right of plaintiff.

And as and for a Further Special Answer and Defense defendants and each of them allege that plaintiff on the 20th day of September, 1945, made and entered into a contract in writing with the "Old Detroit Lions" whereby plaintiff agreed to render services to the said club; that as part of said contract plaintiff agreed that any dispute between plaintiff and the said club arising out of said contract should be referred to the Commissioner of the National Football League and that the decision of said Commissioner would be accepted by both parties as final; that in recognition of said provision of the said contract plaintiff on April 25, 1949, addressed a letter to the Commissioner of the National Football League setting forth the matters and things complained of in complaint of plaintiff on file herein, and requesting a hearing relating to said dispute; that in response to said request the said Commissioner by letter dated April 27, 1949, advised plaintiff that he was willing to meet with plaintiff at a time and place convenient to plaintiff, but that despite such agreement of the Commissioner plaintiff failed and neglected to present himself for such hearing and failed and neglected to

make any attempt to effectuate such hearing or to refer the matter to the Commissioner for arbitration as in said contract agreed.

Wherefore, defendants and each of them demand judgment dismissing the complaint, and awarding to defendants and each of them the costs of this action.

/s/ M. E. LEAHY,

/s/ JOHN F. O'DEA,

Attorneys for Answering Defendants.

[Endorsed]: Filed April 27, 1951.

[Title of District Court and Cause.]

ANSWER OF DEFENDANT J. RUFUS KLAWANS

The defendant, J. Rufus Klawans, answers the complaint of plaintiff on file herein and admits, denies and alleges as follows:

I.

Answering paragraph 1, this defendant denies that he has committed any acts prohibited by the Sherman Act or the Clayton Act or violated any provisions of either of said Acts.

II.

This defendant admits the allegations contained in paragraph 2, insofar as he personally is con-

cerned, but otherwise denies each and every, all and singular, the allegations therein contained.

III.

Answering paragraph 3, this defendant is without sufficient information or belief to otherwise enable him to answer said paragraph and on said ground denies each and every, all and singular, the allegations therein contained.

IV.

Answering paragraph 4, this defendant alleges that the National Football League is an unincorporated association; denies that the Pacific Coast Football League was organized by the National Football League; in this latter connection, this defendant alleges that the Pacific Coast Football League was organized as an unincorporated association and, after eleven (11) years of operation, ceased doing business on the 14th day of May, 1949. At no time during the above periods did the Pacific Coast Football League have any connection with the National Football League, except as insofar as may be hereinafter particularly set forth, but at all times was wholly separate and independently functioning organization.

That at various times during the periods above set forth, the members of the Pacific Coast Football League were as follows:

Seattle-Tacoma, Wash.,
San Francisco,
Oakland,

Richmond,
San Jose,
Salinas,
Sacramento,
Los Angeles,
Hollywood,
Honolulu, T. H.,
Salt Lake City, Utah,
San Diego,
Portland, Oregon.

Other than as hereinabove specifically denied or as hereinafter specifically admitted, this defendant alleges that he is without sufficient information or belief to otherwise enable him to answer said paragraph and on said ground denies each and every, all and singular, the allegations therein contained.

V.

This defendant alleges he is without sufficient information or belief to otherwise enable him to answer the allegations contained in paragraph 5 and, basing his denials on said ground, denies each and every, all and singular, the allegations therein contained.

VI.

This defendant admits the allegations contained in paragraphs 6 and 7 of plaintiff's complaint, except that this defendant denies that the Pacific Coast Football League was a part of, affiliated with, or in any manner a part of the National Football League.

VII.

Answering paragraphs 8 and 9, this defendant is without sufficient information or belief to otherwise enable him to answer said paragraphs and, basing his denial on said lack of information and belief, denies each and every, all and singular, the allegations therein contained.

VIII.

This defendant denies each and every, all and singular, the allegations of paragraph 10, insofar as said allegations have reference to himself personally or to the Pacific Coast Football League.

Further answering said paragraph, and insofar as any revenue derived by the member clubs in the Pacific Coast Football League is concerned, the revenue from the broadcasting and telecasting of the games was relatively small compared to the receipts derived from the patrons attending the games itself; this defendant alleges that any arrangements made for broadcasting or telecasting individual games were matters exclusively within the jurisdiction of the individual clubs and the Pacific Coast Football League did not participate in the profits thereof or the revenue therefrom.

IX.

Answering paragraph 11, this defendant denies each and every, all and singular, the allegations therein contained, except as hereinabove or hereinafter specifically admitted.

X.

This defendant denies that he has at any time committed any acts forbidden by the Sherman Act, or any sections thereof, and denies further that he has violated said Act or damaged plaintiff, either in the manner or in the amounts alleged in said complaint or in any other manner or any other amount, or at all.

XI.

Answering paragraph 13, this defendant alleges that the Pacific Coast Football League, during the period of its existence, arranged for the playing of professional football pursuant to agreements and rules adopted by its member clubs from time to time to regulate and conduct an orderly and competitive exhibition of professional football among its members; that one of the rules adopted by the Pacific Coast Football League was that each player sign a uniform player's contract prepared and adopted by the Pacific Coast Football League; this defendant alleges that said agreements, player contracts and rules so adopted by the member clubs of the Pacific Coast Football League were necessary, reasonable and effective to accomplish the objective of a professional football league and were for the benefit of the public and the players and all persons employed or participating in the said professional football league.

That the Pacific Coast Football League did have rules and regulations covering the rights and obligations of the members and players of the members

and that one of the rules in effect during the period of the existence of the Pacific Coast Football League was to the effect that, if any one player violated his contract with a member team, he was subject to automatic suspension and other disciplinary action. In this latter connection, the player so disciplined had a right of appeal from the imposition of any penalty and the Commissioner was specifically authorized under the rules and regulations of said League to remit any fine or suspend any sentence imposed upon any player.

Except as herein admitted, this defendant denies each and every, all and singular, the allegations contained in paragraph 13 of plaintiff's complaint.

XII.

This defendant denies generally and specifically the allegations contained in paragraph 14 of plaintiff's complaint.

XIII.

Answering paragraphs 15 to 27, inclusive, of plaintiff's complaint, this defendant alleges that he is without sufficient information or belief to otherwise enable him to answer said paragraphs and, basing his denials on said ground, denies each and every, all and singular, the allegations contained in said paragraphs, and each of them.

XIV.

This defendant denies each and every, all and singular, the allegations contained in paragraph 28 of plaintiff's complaint.

XV.

Answering paragraph 29 of plaintiff's complaint, this defendant alleges that he is without sufficient information or belief to otherwise enable him to answer said paragraph and, basing his denial on said ground, denies each and every, all and singular, the allegations therein contained.

XVI.

Answering paragraph 30 of plaintiff's complaint, this defendant denies that any boycott, or ban or blacklisting of plaintiff by this defendant or the Pacific Coast Football League is, or was ever in effect.

XVII.

Answering paragraph 31 this defendant denies that by reason of any of the allegations of plaintiff's complaint on file herein, or by reason of any other action, conduct, combination, conspiracy between defendants, or any of them, or by reason of any other actions or reasons whatsoever, any or all of the defendants have damaged or injured the plaintiff in any manner whatsoever, either by eliminating him from the business of organized football or otherwise; that the failure of plaintiff to obtain employment with the San Francisco Clippers was not due in any manner to any actions of defendants, or any of them, to or with each other or to or with the defendant Pacific Coast Football League or any of its members, employees or representatives.

That except as herein admitted, this defendant denies each and every, all and singular, the allegations contained in paragraph 31 of plaintiff's complaint.

XVIII.

Answering paragraph 32, this defendant denies generally and specifically the allegations of said paragraph, denies that any injury to plaintiff was intended or caused by defendants or any of them, denies that any monopolistic practice was engaged in by defendants, or any of them, and denies that plaintiff has been damaged in the said sum of $35,000.00, or in any sum or at all.

Wherefore, said defendant demands judgment dismissing the complaint and awarding to defendant the costs of this action.

/s/ J. BRUCE FRATIS,
Attorney for Said Defendant.

Receipt of copy acknowledged.

[Endorsed]: Filed July 26, 1951.

[Title of District Court and Cause.]

NOTICE OF MOTION TO CONTINUE TRIAL

To the Plaintiff above named and to his attorneys:

Please Take Notice that on Tuesday, January 20, 1953, at ten o'clock a.m., or as soon thereafter as counsel may be heard, defendants will move the

above-entitled court in the department of the Honorable George B. Harris, Room 276, United States Post Office Building, 7th and Mission Streets, San Francisco, California, for an order removing the above-entitled action from the trial calendar to be reset for trial immediately following the decision of the United States Supreme Court in the matter of George Earl Toolson vs. New York Yankees, Inc., et al.

This motion is based on the stipulation of counsel for the respective parties and upon the affidavit of John F. O'Dea, a copy of which is served herewith.

Dated: January 14, 1953.

/s/ MARSHALL E. LEAHY,

/s/ JOHN F. O'DEA,

Attorneys for Defendants.

Receipt of copy acknowledged.

[Endorsed]: Filed January 15, 1953.

[Title of District Court and Cause.]

STIPULATION FOR REMOVAL OF ACTION FROM TRIAL CALENDAR

It Is Hereby Stipulated by and between the parties, that the above-entitled action may be dropped from the pending trial calendar to be reset for trial immediately following the decision of

the United States Supreme Court in the matter of George Earl Toolson vs. New York Yankees, Inc., et al.

Dated: January 14, 1953.

JOSEPH L. ALIOTO,
ELWOOD S. KENDICK,
JOSEPH F. MURPHY,
By /s/ JOSEPH L. ALIOTO,
Attorneys for Plaintiff.

/s/ MARSHALL E. LEAHY,
/s/ JOHN F. O'DEA,
Attorneys for Defendants.

[Endorsed]: Filed January 15, 1953.

[Title of District Court and Cause.]

AFFIDAVIT IN SUPPORT OF MOTION FOR CONTINUANCE OF TRIAL

State of California,
City and County of San Francisco—ss.

John F. O'Dea, being first duly sworn, deposes and says:

That he is one of the attorneys for the defendant National Football League and other defendants in the above-entitled action; that the trial of the said matter is presently set for February 9, 1953,

before the Honorable District Court sitting with a jury;

That there has heretofore been decided by the Honorable District Court of the United States, Southern District of California, Central Division, the matter of George Earl Toolson vs. New York Yankees, Inc., et al., which said action is numbered 13070-BH in the files of said court; that the decision of the said Honorable District Court has been affirmed by the Honorable United States Court of Appeals for the Ninth Circuit in proceeding No. 13228, Per Curiam Opinion filed December 12, 1952; that affiant is informed and believes that the plaintiff and appellant in said action is preparing a petition for certiorari before the Honorable United States Supreme Court;

That the issues and principles of law determined in the matter of George Earl Toolson vs. New York Yankees, Inc., et al., are almost similar to those involved in the above-entitled action and that the defenses urged by the defendant New York Yankees, Inc., in the proceedings referred to have been urged by the defendants in this proceedings; that the decision of the United States Supreme Court in the matter of George Earl Toolson vs. New York Yankees, Inc., et al., will control the course of procedure and perhaps the decision in this presently-pending action.

/s/ JOHN F. O'DEA.

Subscribed and sworn to before me this 14th day of January, 1953.

[Seal] /s/ GLORIA M. HOWARD,
Notary Public, in and for the City and County of San Francisco, State of California.

My commission expires June 17, 1956.

[Endorsed]: Filed January 15, 1953.

[Title of District Court and Cause.]

ORDER REMOVING CAUSE FROM TRIAL CALENDAR

The parties hereto having so stipulated and good cause appearing therefor,

It Is Hereby Ordered that the above-entitled action may be removed from the pending trial calendar and may be reset for trial immediately following the disposition by the United States Supreme Court of the petition for certiorari in the matter of George Earl Toolson vs. New York Yankees, Inc., et al., which said matter involves issues of law raised herein.

Dated: January 20, 1953.

/s/ GEORGE B. HARRIS,
Judge of the Above-Entitled Court.

[Endorsed]: Filed January 20, 1953.

[Title of District Court and Cause.]

NOTICE OF MOTION FOR DISMISSAL OF COMPLAINT

To the Plaintiff above named and to Joseph L. Alioto, Esq., Joseph F. Murphy, Esq., and Elwood S. Kendrick, Esq., his attorneys:

You Will Please Take Notice that the defendants, National Football League, Chicago Cardinals Football Club, Inc., New York Giants Football Club, Inc., Chicago Bears Football Club, Inc., Detroit Football Company and Los Angeles Rams Football Club on the 19th day of April, 1954, at the hour of 9:30 o'clock a.m., in the Department of the Honorable George B. Harris in the courtroom of the above-entitled court, Post Office Building, Seventh and Mission Streets, San Francisco, California, will move the said court for its order dismissing the complaint on file herein.

The said motion will be made pursuant to Rule 12(b) Federal Court Rules of Civil Procedure and will be based upon the following grounds:

(1) That the complaint indicates a lack of jurisdiction in the court over the subject matter.

(2) That the complaint fails to state a claim upon which relief can be granted.

Dated: April 9th, 1954.

/s/ MARSHALL E. LEAHY,

/s/ JOHN F. O'DEA,

Attorneys for Defendants.

Affidavit of Service by Mail attached.

[Endorsed]: Filed April 12, 1954.

[Title of District Court and Cause.]

NOTICE OF MOTION FOR DISMISSAL OF COMPLAINT

To the Plaintiff above named and to Joseph L. Alioto, Esq., Joseph F. Murphy, Esq., and Elwood S. Kendrick, Esq., his attorneys:

You and Each of You Will Please Take Notice that the defendants Pacific Coast Football League and J. R. Klawans, on the 19th day of April, 1954, at the hour of 9:30 o'clock a.m., in the department of the Honorable George B. Harris, in the courtroom of the above-entitled Court, Post Office Building, Seventh and Mission Streets, San Francisco, California, will move the said Court for its order dismissing the complaint on file herein.

The said motion will be made pursuant to Rule 12(b) Federal Court Rules of Civil Procedure and will be based upon the following grounds:

(1) That the complaint indicates a lack of jurisdiction in the Court over the subject matter.

(2) That the complaint fails to state a claim upon which relief can be granted.

Dated: April 12th, 1954.

/s/ J. BRUCE FRATIS,
Attorney for Defendants Pacific Coast Football League and J. R. Klawans.

Receipt of copy acknowledged.

[Endorsed]: Filed April 13, 1954.

In the District Court of the United States for the Northern District of California, Southern Division

No. 28988-R

WILLIAM RADOVICH,

Plaintiff,

vs.

NATIONAL FOOTBALL LEAGUE, et al.,

Defendants.

ORDER GRANTING MOTION TO DISMISS

This matter having been argued, briefed and submitted for ruling,

It Is Ordered that defendants' motion to dismiss be, and the same hereby is, Granted.

Dated: April 30th, 1954.

/s/ GEORGE B. HARRIS,
United States District Judge.

Toolson vs. New York Yankees,
346 U. S. 356;

Federal Baseball Club vs. National League,
259 U. S. 200.

[Endorsed]: Filed April 30, 1954.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice Is Hereby Given that William Radovich, plaintiff above named, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the

Order granting defendants' motion to dismiss his complaint, entered in this action on April 30, 1954.

Dated: May 28, 1954.

/s/ MAXWELL KEITH,
Attorney for Plaintiff.

Receipt of copy acknowledged.

[Endorsed]: Filed May 28, 1954.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the United States District Court for the Northern District of California, do hereby certify that the foregoing and accompanying documents, listed below, are the originals filed in this Court in the above-entitled case and that they constitute the record on appeal herein as designated by the attorneys for the appellant:

Complaint.
Interrogatories.
Answer to interrogatories.
Notice of objection of defendant, J. Rufus Klawans, to plaintiff's interrogatories and motion for an order for the protection of defendant and for an extension of time to answer certain interrogatories.
Interrogatories.
Interrogatories.
Motion to dismiss and motion to set for hearing.

Notice of motion of defendant, National Football League, to quash purported service of summons and to dismiss complaint.

Affidavit of Bert Bell in support of motions to dismiss.

Affidavit of J. Rufus Klawans in support of motions to dismiss.

Affidavit of Mary McCullough in support of motion of National Football League to dismiss.

Notice of motion of defendant, New York Football Giants Club, Inc., to dismiss complaint.

Affidavit of John V. Mara in support of motion of defendant, The New York Football Giants, Inc., to dismiss.

Notice of motion of defendant Chicago Cardinals Football Club, Inc., to dismiss complaint.

Affidavit of Ray Bennigsen.

Notice of motion of defendant Detroit Football Company to dismiss complaint.

Affidavit of Lewis Cromwell.

Notice of motion of defendant Chicago Bears Football Club, Inc., to dismiss complaint.

Affidavit of George S. Halas.

Affidavit of Daniel F. Reeves.

Notice of motion of defendant Los Angeles Rams Football Club to dismiss complaint.

Notice of objections of defendant, National Football League, to plaintiff's interrogatories and motion for an order for the protection of defendant and for an extension of time to answer certain interrogatories.

Notice of objections of defendant, Chicago Cardinals Football Club, Inc., etc., et al., to plaintiff's interrogatories, etc.

Answers to interrogatories by defendant National Football League.

Answers to interrogatories by defendant Los Angeles Rams Football Club.

Answers to interrogatories by defendant The New York Football Giants, Inc.

Answers to interrogatories by defendant Chicago Bears Football Club, Inc.

Answers to interrogatories by defendant Detroit Football Company.

Answers to interrogatories by defendant Chicago Cardinals Football Club, Inc.

Notice of motion of defendant The Philadelphia Eagles, Inc., to quash purported service of summons and to dismiss complaint.

Affidavit of Anthony J. Morabito in support of motion of defendant, The Philadelphia Eagles, Inc., to quash purported service of summons and to dismiss complaint.

Affidavit of Paul Lewis.

Order on motions to quash, etc.

Motion to strike portions of complaint by defendant National Football League.

Motion to strike portions of complaint by defendants, Chicago Cardinals Football Club, Inc., New York Football Giants, Chicago Bears Football Club, Inc., Detroit Football Company and Los Angeles Rams Football Club.

Order denying motion to strike.

Answer of various defendants.

Answer of defendant J. Rufus Klawans.

Stipulation for removal of action from trial calendar.

Notice of motion for dismissal of complaint.

Notice of motion for dismissal of complaint.

Order granting motion to dismiss.

Notice of appeal.

Cost bond on appeal.

Appellant's designation of record.

Deposition of George S. Halas.

Deposition of William Radovich.

Deposition of George Preston Marshall.

Notice of motion to continue trial.

Affidavit in support of motion for continuance of trial.

Order removing cause from trial calendar.

In Witness Whereof I have hereunto set my hand and affixed the seal of said District Court this 16th day of June 1954.

C. W. CALBREATH,
Clerk;

By /s/ WM. C. ROBB,
Deputy.

In the District Court of the United States for the Northern District of California, Southern Division

No. 28988

WILLIAM RADOVICH,

Plaintiff,

vs.

NATIONAL FOOTBALL LEAGUE, et al.,

Defendants.

JUDGMENT

Defendants, Pacific Coast Football League, J. Rufus Klawans, National Football League, Chicago Cardinals Football Club, Inc., New York Football Giant Club, Inc., Chicago Bears Football Club, Inc., Detroit Football Company and Los Angeles Rams Football Club, having moved for a dismissal of this cause under Rule 12(b) on the grounds that the complaint indicates a lack of jurisdiction in the court over the subject matter; and that the complaint fails to state a claim upon which relief can be granted; and said motion having been duly argued by counsel, both orally and upon written memoranda, and the court having granted defendants' motion to dismiss:

It Is Therefore Ordered and Adjudged that plaintiff's action be and it hereby is dismissed.

Dated: Sept. 17, 1954.

/s/ GEORGE B. HARRIS,
United States District Judge.

Approved as to form as provided in Rule 5(d) of the Rules of Practice of the District Court of the United States for the Northern District of California.

/s/ J. BRUCE FRATIS,
Attorney for Pacific Coast Football League and J. Rufus Klawans.

/s/ MARSHALL E. LEAHY,
Attorney for Other Defendants.

JOSEPH L. ALIOTO,
MAXWELL KEITH,
ELWOOD S. KENDRICK,
By /s/ MAXWELL KEITH,
Attorneys for Plaintiff.

[Endorsed]: Filed September 17, 1954.

[Endorsed]: No. 14394. United States Court of Appeals for the Ninth Circuit. William Radovich, Appellant, vs. National Football League, et al., Appellee. Transcript of Record. Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed June 16, 1954.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the Ninth Circuit.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice Is Hereby Given that William Radovich, plaintiff above named, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the Judgment of Dismissal, entered in this action on September 20, 1954.

Dated: September 20, 1954.

/s/ MAXWELL KEITH,
Attorney for Plaintiff.

Receipt of copy acknowledged.

[Endorsed]: Filed September 20, 1954.

United States Court of Appeals
for the Ninth Circuit
No. 14,394

WILLIAM RADOVICH,

Appellant,

vs.

NATIONAL FOOTBALL LEAGUE, et al.,

Appellees.

APPELLANT'S STATEMENT OF POINTS ON APPEAL

To: The Honorable Chief Justice and Associate Justices of the United States Court of Appeals for the Ninth Circuit.

Appellant respectfully states that the following are the points upon which he intends to rely on appeal:

1. The trial court erred in dismissing plaintiff's complaint on the ground that organized professional football is not within the scope of the federal antitrust laws.

2. The trial court erred in not ruling that plaintiff's complaint stated a good and sufficient action for injuries resulting from violations of recognized common law restraints of trade regardless of the application of the federal antitrust statutes to organized professional football.

Appellants designate the following documents and points of the record which they think necessary for the consideration of the foregoing points on appeal, to wit:

/s/ MAXWELL KEITH,
Attorney for the Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed September 17, 1954.

[fol. 73] ARGUMENT AND SUBMISSION—SEPTEMBER 15, 1955

(OMITTED IN PRINTING)

[fol. 74] IN UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Before: STEPHENS, FEE and CHAMBERS, Circuit Judges.

ORDER DIRECTING FILING OF OPINION AND FILING AND RECORDING OF JUDGMENT—March 27, 1956

Ordered that the typewritten opinion this day rendered by this Court in above cause be forthwith filed by the Clerk, and that a Judgment be filed and recorded in the minutes of the Court in accordance with the opinion rendered.

[fol. 75] IN UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 14,394

WILLIAM RADOVICH, *Appellant*,

vs.

NATIONAL FOOTBALL LEAGUE, et al., *Appellee*.

On Appeal from the United States District Court for the Northern District of California, Southern Division

OPINION—MARCH 27, 1956

Before: STEPHENS, FEE and CHAMBERS, Circuit Judges.

CHAMBERS, CIRCUIT JUDGE:

William Radovich is a one time football great from the University of Southern California. From there he went on to Detroit to play professional football in the years 1938-1941 and 1945, with the Detroit Lions, a member of the National Football League. His playing there was interrupted by service in the Navy during World War II. With the Lions, Radovich as a professional was as success-

ful, if not more so, than he had been as an amateur at Southern California.

In 1946 Radovich signed to play at an increase in salary with the Los Angeles Dons, a football organization outside the ties of the National Football League. Eventually, he wanted, he says, re-employment by the Detroit Lions or by other football organizations of the National League. But he says up to the filing of his complaint, he could find no further employment as a football player with teams affiliated with the National League because when he joined the Los Angeles Dons he broke his contract with the Detroit Lions. He violated the "reserve clause," long established in baseball and now a standard provision of contracts of member clubs of National. Shortly stated, the reserve clause in a player's contract ties the player to his club and he cannot go to another club without the consent of [fol. 76] the club holding his contract. Violation of the clause results in a five year suspension which Radovich received when he joined the Dons.

Radovich, perhaps with a prescience that anticipated United States v. International Boxing Club, 348 U. S. 236, filed suit in the U. S. District Court for the Northern District of California against the National Football League and others. He alleges a violation of the federal anti-trust statutes. He says his troubles are due to the defendants' violations. Carefully it is pleaded that professional football, in reality, is played on a stage or arena from which interstate broadcasting and telecasting originate; that the game is a business, the show of which is really inter-related with television and radio broadcasting. He says the latter are not mere incidents to the show. Then he asked for treble damages and for injunctive relief.

The League and other defendants, in their answer, say:

1. They haven't conspired against Radovich and they haven't hurt him.

2. Radovich at 35 is just an old man in his profession and no longer employable by major teams. (The poignancy of that, if true, is obvious.) So, they suggest he has gone into the business of litigation.

3. The business of professional football is dependent on having teams of reasonably comparable strength. The re-

serve clause which keeps players from being free agents prevents the players from going into the market place seeking annual bidders. Prevention of this tends to prevent the strong from becoming stronger and the weak weaker.

4. The whole thing in professional football is the "game": the spectacle on the field which the crowd sees. The television and radio aspects are trifling.

Pursuant to stipulation of the parties, defendants' motion to dismiss was held under advisement until the decision in Toolson v. New York Yankees, 346 U. S. 356, was announced. Then the complaint was dismissed by the district judge. Radovich appeals.

The League relies on Toolson and its parent, Federal Baseball Club v. National League, 259 U. S. 200. Radovich [fol. 77] says the International Boxing case governs and his complaint should not have been dismissed. Which of the two tides catches professional football? We confess that the strength of the pull of both cases is about equal.

Federal Baseball v. National League survived in Toolson, we believe, only because of the historical indulgence of the Congress in not specifically bringing the sport under the anti-trust acts for 30 years after the former decision was announced. Radovich says United States v. International Boxing means that only the professional sport of baseball is left with an immunity from the application of the Sherman and Clayton Acts and that the immunity of baseball is really a historically accident. It is a good argument.

However, no one has suggested that the difference between Toolson and International Boxing lies in the fact that it is probably the public belief that professional baseball has kept a cleaner house than professional boxing. (No slur on many, many fine men in the boxing profession is intended.) To us it seems that, caught in between the commands of the two cases, we should determine our ruling by the answer to the query: Is professional football business or sport more like the business of boxing or like the business of baseball?

If our first step is correct: that we have the right to compare, then the second one is obvious. Football is a team sport. Its operation has just about the same aspects as

baseball. Boxing is an individual sport. In professional football, very good arguments do exist for the indulgence of restraints on individual players. Of course, such indulgence could not stand against the positive commands of the Congress. In boxing, arguments for restraints on the individual's right to contract seem rather hollow.

Further, it appears reasonable to us to assume that if Congressional indulgence extended to and saved baseball from regulation, then the indulgence extended to other team sports.

Further, even though International Boxing governs here, we are confident plaintiff has not stated a claim. As said in Fedderson v. Ward, 10 Cir., 180 F. 2d 519 at 522, "A general allegation * * * is not enough. While detail is not necessary, it is essential that the complaint allege facts [fol. 78] from which it can be determined as a matter of law that by reason of intent, tendency or the inherent nature of the contemplated acts, the conspiracy was reasonably calculated to prejudice the public interest by unduly restricting the free flow of interstate commerce."

Distilled, plaintiff's allegation is really that there was a conspiracy to eliminate football leagues not affiliated with National, particularly another league called the All America Conference. The alleged methods would be control of players by the reserve clause and blacklists. (It seems doubtful that restraint on Radovich and others so situated is a restraint on interstate commerce.)

And if he is to recover at all, it is more probable his must be a derivative right springing from the allegation of intent to "boycott and ruin the All America Conference." Within the four corners of the complaint, we doubt that the alleged means, restraint by the reserve clause and its enforcement, is legally sufficient to support, without more, a conclusion that these means were calculated to prejudice the public or unreasonably restrain interstate commerce. According to Radovich, he in fact was able to play for the All America Conference team and at a higher salary. He alleges that he couldn't play for National League teams any longer.

We fail to discover any basis to say that the appellant has pleaded that All America or any other league was ruined, would be ruined or substantially affected by the complained

of acts. The result cannot be presumed as a matter of law. In International there was alleged a collection of overt acts, which if true, lead easily to the conclusion (if boxing be commerce among the states) that the public was adversely affected. There it easily flows from the allegations that a top-flight boxer could not obtain top-flight matches if he did not let International "own his soul." Effect on the public interest there requires no searching or speculation.

Judgment affirmed.

[File endorsement omitted.]

[fol. 79] IN UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 14,394

WILLIAM RADOVICH, *Appellant*,

vs.

NATIONAL FOOTBALL LEAGUE, et al., *Appellee*.

JUDGMENT—MARCH 27, 1956

Appeal from the United States District Court for the Northern District of California, Southern Division.

This cause came on to be heard on the Transcript of the Record from the United States District Court for the Northern District of California, Southern Division, and was duly submitted.

On consideration whereof, It is now here ordered and adjudged by this Court, that the Judgment of the said District Court in this cause be, and hereby is affirmed, with costs in favor of the Appellees and against the Appellant.

IT IS FURTHER ORDERED and adjudged by this Court that the Appellees recover against the Appellant for their costs herein expended and have execution therefore.

[File endorsement omitted.]

[fol. 80] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 81] SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956

No. 94

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed October 8, 1956

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(2277-2)